



COUNCIL MINUTES

July 8, 2009

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on July 8, 2009 at 5:45 p.m.

COUNCIL PRESENT

Mayor Scott Smith
Alex Finter
Dina Higgins
Kyle Jones
Dennis Kavanaugh
Dave Richins
Scott Somers

COUNCIL ABSENT

None

OFFICERS PRESENT

Debbie Spinner
Linda Crocker

Invocation by Pastor Dave Land, New Life Assembly of God.

Pledge of Allegiance was led by Scout Austin Ellsworth of Troop #957.

Mayor's Welcome.

Mayor Smith welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

Presentation by Mesa United Way.

Carol McCormack, President of the Mesa United Way, stated that many employees of companies and organizations throughout Mesa assist in the annual fund drive by serving as volunteer coordinators. She recognized Public Safety Communications Shift Supervisor Christine Young for her outstanding service and presented her with the Employee Campaign Leader of the Year award.

Mayor Smith congratulated Ms. Young and thanked her for her efforts.

1. Take action on all consent agenda items.

All items listed with an asterisk (*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent

agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

Mayor Smith advised that a citizen has requested that item 5f be removed from the consent agenda.

It was moved by Vice Mayor Jones, seconded by Councilmember Somers, that the consent agenda items, with the exception of item 5f, be approved.

Carried unanimously.

*2. Approval of minutes of previous meetings as written.

Minutes of the January 22, June 18 and 22, and July 1, 2009 Council meetings.

3. Take action on the following liquor license applications:

*3a. Trader Joe's #89

Person to Person Location to Location Transfer Beer and Wine Bar License for Trader Joe's #89, 2050 E Baseline Road, Trader Joe's Company – H. J. Lewkowitz, Agent. This location presently has a Beer and Wine Store License under Trader Joe's Company that will revert back to the State **(District 2)**.

*3b. Circle K Store #9153

New Beer & Wine Store License for Circle K Store #9153, 1210 S. Higley Road, Circle K Store Inc. – Kim Kenneth Kwiatkowski, Agent. The previous Beer & Wine Store License held at this location by Station Operators Inc. will revert back to the State **(District 6)**.

*3c. Circle K Store #9158

New Beer & Wine Store License for Circle K Store #9158, 1945 S. Stapley Drive, Circle K Store Inc. – Kim Kenneth Kwiatkowski, Agent. The previous Beer & Wine Store License held at this location by Station Operators Inc. will revert back to the State **(District 4)**.

*3d. Circle K Store #9175

New Beer & Wine Store License for Circle K Store #9175, 1961 S. Val Vista Drive, Circle K Store Inc. – Kim Kenneth Kwiatkowski, Agent. The previous Beer & Wine Store License held at this location by Station Operators Inc. will revert back to the State **(District 6)**.

*3e. Circle K Store #9179

New Beer & Wine Store License for Circle K Store #9179, 1203 S. Power Road, Circle K Store Inc. – Kim Kenneth Kwiatkowski, Agent. The previous Beer & Wine Store License held at this location by Station Operators Inc. will revert back to the State **(District 6)**.

*3f. Circle K Store #9191

New Beer & Wine Store License for Circle K Store #9191, 1153 S. Signal Butte Road, Circle K Store Inc. – Kim Kenneth Kwiatkowski, Agent. The previous Beer & Wine Store License held at this location by Station Operators Inc. will revert back to the State **(District 6)**.

*3g. Mo's On The Green Sports Grill

New Restaurant License for Mo's On The Green Sports Grill, 801 S. Power Road Ste 101, Mr. Baseball AZ LLC, Brett P. Grebe, Agent. The previous Restaurant License held at this location by Bench Warmers Enterprises Inc. was surrendered to the State Liquor Board on March 31, 2009 **(District 6)**.

4. Take action on the following contracts:

*4a. Purchase of Early Intervention Database Software for the Police Department, Internal Affairs (Fully Funded Asset Forfeiture [RICO] Funds) **(Citywide)**.

The Business Services Department recommends awarding the contract to CI Technologies, Inc. at \$46,675.20, including applicable use tax.

*4b. Purchase of a replacement forklift for the Water Resources Department **(Citywide)**.

The Business Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, H & E Equipment Services, at \$25,440.75, including applicable sales tax.

*4c. Term contract for Police motorcycle maintenance and repair services for the Police Department **(Citywide)**.

The Business Services Department recommends awarding the contract to Probit Cycle, Inc. at \$150,000.00, based on estimated annual purchases.

*4d. Purchase of additional infrastructure to expand TOPAZ radio coverage (Fully Funded Public Safety Bonds – Partial Reimbursement from TRWC Members) **(Citywide)**.

The Business Services Department recommends awarding the contract to Motorola, Inc. at \$293,329.76, including applicable sales tax.

*4e. Purchase of replacement Microwave Network Switches and Edge Routers for the Communications Department (Fully Funded Public Safety Bond) **(Citywide)**.

The Business Services Department recommends authorizing purchase from the cooperative contact with Torrey Point Group, Inc. at \$920,172.00, including applicable use tax.

***4f. Hermosa Vista Sulfide Station (District 5).**

City Project No. 02-364-002. Wastewater produces odors in the City's sanitary sewer collection systems that are typically the result of the presence of hydrogen sulfide gas. The City applies chemicals at strategic locations throughout the City to control the production and release of sulfide gas. These facilities are called Sulfide Control Stations (SCS) and are used to supply the chemicals into the wastewater system. This project will relocate an existing city owned sulfide control station from the Northwest Water Reclamation Plant (NWWRP) to this location.

Recommend award to the low bidder, City Wide Contracting LLC, in the amount of \$308,070.00 plus an additional \$30,807.00 (10% allowance for change orders) for a total award of \$338,877.00. Funding is available in the adopted FY 09/10 Wastewater Capital Bond Program.

***4g. Electrical circuit conversion – Circuit 101 Undergrounding (District 2).**

City Project No. 02-384-004. The Energy Resources Department, Electric Division, has ongoing electric distribution circuit voltage conversion projects. There is a service territory island located approximately one-quarter mile east of Stapley Drive, roughly bounded by Main Street, Harris Drive, 2nd Street and Barkley, that is served by 4 kilovolt (kV) circuit known as Circuit 101. This circuit is being upgraded from a 4 kV to 12 kV, which requires the distribution line to be upgraded. This overhead line segment currently shares a series of shared power poles with Salt River Project (SRP) Electric, Cox Cable and Qwest telephone lines. To properly increase the voltage rating, additional clearance and separation is required from the SRP electric line. No public electric service interruptions are anticipated.

Recommend award to the low bidder, Utility Construction Company, Inc., in the amount of \$106,382.75 plus an additional \$10,638.28 (10% allowance for change orders) for a total award of \$117,021.03. Funding is available in the adopted FY 09/10 Electrical Bond Capital Program.

5. Take action on the following resolutions:

- *5a.** Approving and authorizing the City Manager to execute a Highway Safety Contract with the Governor's Office of Highway Safety to accept grant funds in the amount of \$34,064 for officer assigned to Arizona's Impaired Driving Enforcement Program for 3.5 months – Resolution No. 9531.
- *5b.** Approving and authorizing the City Manager to execute a Memorandum of Understanding to accept grant funds in the amount of \$253,803 made available through the 2009 Byrne Justice Assistance Grant Program to be used to purchase and install a document management system in the Police Department – Resolution No. 9532.
- *5c.** Approving and authorizing the City Manager to execute a Memorandum of Understanding with the United States Marshals Service to accept grant funds in the amount of \$15,572 per officer assigned to the U.S. Marshals Service District Fugitive Apprehension Task Force – Resolution No. 9533.

- *5d. Levying the amount to be raised by a Secondary Property Tax Levy and the rate upon each one hundred dollars (\$100.00) of the assessed valuation of property subject to taxation within the City of Mesa for the Fiscal Year ending June 30, 2010 – Resolution No. 9534.
- *5e. Approving and authorizing the City Manager to execute an Amendment to an Intergovernmental Agreement between the Arizona Department of Transportation and the City of Mesa for the construction of a Shared-Use Path along the Consolidated Canal from E. 8th Street to E. Main Street. There is no City Share from Mesa for this project – Resolution No. 9535. (Funding by the American Recovery and Reinvestment Act up to a maximum of \$750,000) **(District 2)**.
- 5f. Approving and authorizing the City Manager to execute an Intergovernmental Agreement with the Maricopa Association of Governments and the Arizona Department of Transportation for the advancement of design and right-of-way acquisition on Gateway Freeway, State Route 802 – Resolution No. 9536.

Mark Young, Intergovernmental Liaison for the Town of Queen Creek, expressed support for the project. He said that advancement of the project would benefit both the City of Mesa and the Town of Queen Creek.

It was moved by Councilmember Richins, seconded by Councilmember Somers, that Resolution No. 9536 be adopted.

Carried unanimously.

6. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen that wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (*), a blue card must be given to the Clerk before Council votes on the consent agenda.

- *6a. **209-13 (District 4)** 32 and 42 South Center Street. Located south of Main Street on the west side of Center Street (1.9± acres). Council Use Permit. This request will allow the expansion of an existing charter school. David French, owner; Wade Melchin, Heritage Academy, applicant – Ordinance No. 4938. **(Notified property owners, homeowners associations and registered neighborhoods.)**

PHO Recommendation: Approval with conditions.

- *6b. Approving the First Amendment to the Nonexclusive, 2003 Cable Television Renewal License with COXCOM, Inc. and authorizing the City Manager to sign the Amendment – Ordinance No. 4939.
- *6c. Adopting and authorizing the City Manager to execute an agreement that incorporates all provisions contained in the existing Southwest Gas franchise until November 2, 2010 – Ordinance No. 4940.

7. Introduction of the following ordinance and setting August 24, 2009, as the date of the public hearing on this ordinance:

- *7a. Repealing Title 6, Chapters 12 and 19 of the Mesa City Code in its entirety and adopting a new Title 6, Chapter 12 relating to offensive, excessive and prohibited noises.

8. Discuss, take public comment and take action on the following Minor General Plan Amendment, Development Agreement and zoning case: **(Continued from the July 1, 2009 Council meeting.)**

8a. Public Hearing on Minor General Plan Amendment **GPMInor09-03 (District 6).**

Mayor Smith announced that this was the time and place for a public hearing on Minor General Plan Amendment GPMInor09-03.

Mayor Smith said that the Council would first hear from the applicant's representative.

Paul Gilbert, an attorney with Beus Gilbert, addressed the Council on behalf of the Baseline Center, a 54-acre project located at the intersection of Baseline and Hawes Roads. He stated that the applicant is presenting a Minor General Plan Amendment, a development agreement and a zoning case. Mr. Gilbert displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) and noted the difficulty of developing a property that has poor freeway access and limited freeway visibility in an area of single family homes. He said that the property's current General Plan designation specifies mixed-use residential, which includes 30 percent high-density residential (a minimum of 15 units per acre), light industrial, office and retail. Mr. Gilbert advised that although the property is currently zoned agricultural, conceptual zoning was approved in 1985 for light industrial, office, commercial, multi-family development and townhomes.

Mr. Gilbert said that the proposed General Plan designation is HDR (multi-residential at 15+ units per acre) on 20 acres and neighborhood commercial on 34 acres with R-4 and C-2 zoning. He advised that the development plan includes neighborhood retail, garden offices for professionals, multi-family housing and a small section for mini storage facilities. Mr. Gilbert added that the Council would have an opportunity to review and approve the final site plan.

In response to comments by Mayor Smith, Mr. Gilbert explained that although a Council review of the final site plan is not the normal process, the applicant has agreed to that stipulation. He noted that the design guidelines, which were completed in advance, have been reviewed by staff, meet or exceed the City's guidelines, and are included as a stipulation to the zoning case. Mr. Gilbert provided an overview of the quality standards included in the guidelines.

Mr. Gilbert stated that the development agreement reinforces the design guidelines and incorporates additional quality standards. He outlined the features that are required for the multi-family development, such as a club house, pedestrian paths and fifteen percent open space. Mr. Gilbert listed many of the prohibited uses, some of which are pawn shops, tattoo and massage parlors, adult books stores, and thrift stores. He summarized that the applicant is committed to developing a quality project.

Beverly Selvage, representing the Sunland Village East retirement community, said she opposed the high-density residential development that is planned for the project. She expressed concern that the development would create traffic problems in the area.

Pat Chumbley, President of the Sunland Village East Homeowners' Association, stated that Farnsworth Drive in their community is presently experiencing traffic congestion. She stated the opinion that because of limited access to the 202 Freeway, the new development would generate additional congestion as traffic attempts to access the U.S. 60. She also expressed concern that the development has a minimum requirement for non-residential uses, but there is no maximum limitation.

Councilmember Somers noted that the prohibition against massage parlors is not included in the written document.

Mr. Gilbert responded that massage parlors were omitted from the list in error and would be included in the final document. He also said he would state for the record that massage parlors are a prohibited use within the development.

Responding to a series of question from Councilmember Higgins, Mr. Gilbert advised that multi-family density for the subject project and the adjoining section of property would be approximately 20 units per acre. He said that the project is currently restricted to 30 percent multi-family, but he added that the actual percentage has not yet been determined.

Planning Director John Wesley confirmed that approval of the General Plan amendments would enable each project to allocate 50 percent of the property to high-density residential development.

Mr. Gilbert advised that the applicant will comply with the City Traffic Engineering Department's request to install a traffic signal at Hawes and Baseline Roads and to construct deceleration and turn lanes as part of the project.

There being no additional speakers, Mayor Smith declared the public hearing closed.

8b. Take action on the following resolutions:

GPMInor09-03 (District 6) The 8200 to 8500 blocks of East Baseline Road (north side). Located west of the Loop 202 and north of Baseline Road (54± acres). Minor General Plan Amendment. This request will amend the Mesa 2025 General Plan land use designation for the site from Mixed Use Residential to High Density Residential 15+ du/acre (20± acres) and Neighborhood Commercial (34± acres). David Glimcher, GVSW 202/60 LLC, owner; Susan Demmitt, Beus Gilbert PLLC, applicant – Resolution No. 9537. (Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.) COMPANION CASE Z08-47.

8c. Approving and authorizing the City Manager to execute the Development Agreement with GVSW – 202/60 LLC to establish quality of development and restrictions on uses for property to be developed as "Baseline Center" on the north side of Baseline Road just west of the 202 Freeway – Resolution No. 9538.

8d. Take action on the following ordinance introduced at a prior Council meeting:

Z08-47 (District 6) The 8200 to 8500 blocks of East Baseline Road (north side). Located west of the Loop 202 on the north side of Baseline Road (54± acres). Rezone from AG (conceptual M-1, C-2, O-S, R-3, and R-2) to C-2 (34± acres) and R-4 (20± acres) and the establishment of the “Baseline Center” Development Master Plan (DMP). This request will establish a Development Master Plan to allow the creation of a development with a mixture of residential, office and retail uses. David Glimcher, GVSW 202/60 LLC, owner; Susan Demmitt, Beus Gilbert PLLC, applicant – Ordinance No. 4941. **(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.) COMPANION CASE GPMInor09-03.**

P&Z Recommendation: Approval with conditions. (Vote 4 - 0 – 1 Boardmember Carter abstained; Boardmembers Salas and Roberts absent)

Mayor Smith announced that agenda items 8b, c and d would be considered in one motion.

Councilmember Somers stated that this project is located on a site that presents many challenges and has been ongoing for almost three years. He reported that the surrounding area, which includes one of the oldest neighborhoods in District 6, has participated in the “Building Strong Neighborhoods Initiative,” clean-up projects and volunteer events. Councilmember Somers noted that the project would also impact Sunland Village East, where many high-quality and custom homes have been constructed. He said that the initial project submission did not include a development agreement or design guidelines. He further stated that at his request, the developer is including many high-quality features such as a gated community, compliance with CPTED (Crime Prevention through Environmental Design) principles and amenities typically included in high-end projects.

Councilmember Somers displayed a PowerPoint presentation (a copy is available for review in the City Clerk’s Office) that highlighted vacant retail development within two miles of the project, and he cited retail and office vacancy rates. Councilmember Somers stated the opinion that the development’s success depended on creating a sense of place.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Resolution Nos. 9537 and 9538 and Ordinance No. 4941 be adopted.

In response to a question from Councilmember Higgins, Mr. Wesley advised that the CPTED principles are included as part of the multi-family development agreement. He added that although CPTED is not a requirement in the commercial areas, many of the CPTED principles are already a part of the City’s Code requirements.

Councilmember Somers said that representatives of the Transportation Department are scheduled to hold meetings with the Sunland Village East residents in order to address traffic issues.

Responding to a question from Councilmember Higgins, Mr. Gilbert advised that the existing General Plan requirement for additional industrial, manufacturing and office space was not feasible and that the Minor General Plan Amendment would provide the needed flexibility. He added that the Planning and Zoning Board recommended that the applicant propose a General Plan Amendment for this project.

Councilmember Richins suggested that the current General Plan has over-regulated the mixed-use category.

Councilmember Kavanaugh commended the applicant and Councilmember Somers for their efforts regarding the development agreement and the design guidelines.

Councilmember Richins thanked Councilmember Somers for his leadership regarding this project.

Mayor Smith stated that the General Plan Amendment enables a higher quality project to be developed with improved design standards. He explained that that the Council has allowed certain minor changes in order to secure a higher quality development. Mayor Smith added that in the long-term the market will decide what is constructed and the timing of the construction. He also complimented Mr. Wesley for his efforts with the project, and he noted that greater flexibility in the development must be coupled with higher standards that will enhance the area in the long term.

Mayor Smith called for the vote.

Carried unanimously.

9. Discuss, take public comment and take action on the following Minor General Plan Amendment: (Continued from the July 1, 2009 Council meeting).

9a. Public hearing on Minor General Plan Amendment **GPMInor08-11 (District 6)**

Mayor Smith announced that this was the time and place for a public hearing regarding Minor General Plan Amendment GPMInor08-11.

Sean Lake, an attorney with Pew & Lake, addressed the Council on behalf of the applicant, and noted that the subject property adjoins the development considered by the Council under agenda item 8 and has the same challenges. He stated for the record that the developer agrees to incorporate the CPTED (Crime Prevention through Environmental Design) principles in the project and to participate in the Crime Free Multi-Housing Program. Mr. Lake added that the applicant would incorporate the design guidelines and the provisions of the development agreement approved under agenda item 8 to ensure the cohesive development of both properties.

Mayor Smith expressed the hope that both projects would appear to be seamless when the development is complete.

Councilmember Somers thanked Mr. Lake for his cooperation, and he noted that the public would have an opportunity for additional input as the zoning cases move forward.

There being no additional speakers, Mayor Smith declared the public hearing closed.

9b. Take action on the following resolution:

GPMInor08-11 (District 6) 8260 East Baseline Road. Located west of the Loop 202 and north of Baseline Road (14.5± acres). Minor General Plan Amendment. This request will amend the Mesa 2025 General Plan land use designation for the site from Mixed Use

Residential (MUR) to High Density Residential 15+ du/acre (HDR 15+). Loren & Colette Jessen; JesscoDev. LLC, owner; Sean Lake; Pew and Lake, PLC, applicant – Resolution No. 9539. **(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)**

P&Z Recommendation: Approval with conditions. (Vote: 4 – 0 – 1 Boardmember Carter abstained; Boardmembers Salas and Roberts absent).

It was moved by Councilmember Richins, seconded by Councilmember Kavanaugh, that Resolution No. 9539 be adopted.

Councilmember Finter expressed support for the motion, and he stated the opinion that the Mesa 2025 General Plan is a document that should evolve over time.

Mayor Smith called for the vote.

Carried unanimously.

10. Take action on the following plat:

- *10a. “Stapley and McKellips Plaza Condominiums” – **(District 1)** 1242 E. McKellips Rd. (north side) located east and north of McKellips Road and Stapley Drive. 2 C-2 condominium units (.512 ac.) Stapley and McKellips LLC, owners; Edward F. Vincent, Olsson Associates, surveyor.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the meeting adjourned at 6:57 p.m.

SCOTT SMITH, MAYOR

ATTEST:

LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 8th day of July 2009. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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